

LIBRARY 14 (Gina)

10 MARGINS F

20

SENATE/HOUSE FILE _____

30

BY (PROPOSED FREEDOM OF

40

INFORMATION, OPEN MEETINGS,

50

AND PUBLIC RECORDS INTERIM

60

STUDY COMMITTEE BILL)

70

80

90 Passed Senate, Date _____ Passed House, Date _____

100 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

110 Approved _____

120

130

A BILL FOR

140

150 MARGINS L

160 An Act relating to open records and public meetings.

170 MARGINS F

180 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

190 MARGINS F F

200 TLSB 5233IC 82

210 rh/rj/14

10 MARGINS L

20 Section 1. Section 8A.341, subsection 2, Code 2007, is
30 amended to read as follows:

40 2. If money is appropriated for this purpose, by November
50 1 of each year supply a report which contains the name,
60 gender, county, or city of residence when possible, official
70 title, salary received during the previous fiscal year, base
80 salary as computed on July 1 of the current fiscal year, and
90 traveling and subsistence expense of the personnel of each of
100 the departments, boards, and commissions of the state
110 government except personnel who receive an annual salary of
120 less than one thousand dollars. The number of the personnel
130 and the total amount received by them shall be shown for each
140 department in the report. All employees who have drawn
150 salaries, fees, or expense allowances from more than one
160 department or subdivision shall be listed separately under the
170 proper departmental heading. On the request of the director,
180 the head of each department, board, or commission shall
190 furnish the data covering that agency. The report shall be
200 distributed upon request without charge in an electronic
210 medium to each caucus of the general assembly, the legislative
220 services agency, the chief clerk of the house of
230 representatives, and the secretary of the senate. Copies of
240 the report shall be made available to other persons in an
250 electronic medium upon payment of a fee, which shall not
260 exceed the cost of providing the copy of the report. Sections
270 22.2 through ~~22.6~~ 22.5 apply to the report. All funds from
280 the sale of the report shall be deposited in the printing
290 revolving fund established in section 8A.345.

300 Sec. 2. Section 21.2, subsection 2, Code 2007, is amended
310 to read as follows:

320 2. a. "Meeting" means a gathering in person or by
330 electronic means, formal or informal, of a majority of the
340 members of a governmental body where there is deliberation or
350 action upon any matter within the scope of the governmental

360 body's policy-making duties. A "meeting" includes the
370 calculated use of a series of communications, each between
380 less than a majority of the members of a governmental body or
390 their personal intermediaries, that is intended to reach and
400 does in fact reach a majority of the members of the
410 governmental body and that is intended to discuss and develop
420 a collective final decision of a majority outside of a meeting
430 with respect to specific action to be taken by the majority at
440 a meeting.

450 b. Meetings-shall A "meeting" does not include any of the
460 following:

470 (1) a A gathering of members of a governmental body for
480 purely ministerial or social purposes when there is no
490 discussion of policy or no intent to avoid the purposes of
500 this chapter.

510 (2) Written electronic communications by one or more
520 members of a governmental body or by its chief executive
530 officer that are ordinarily preserved and are accessible and
540 that are sent to a majority of the members of the governmental
550 body, or a series of such written electronic communications
560 each sent only to a minority of the members of the
570 governmental body but that in the aggregate are sent to a
580 majority of its members that do both of the following:

590 (a) Concern a particular matter within the scope of the
600 governmental body's policy-making duties.

610 (b) Would otherwise constitute a meeting.

620 However, this exclusion only applies if the written
630 electronic communications, to the extent such communications
640 are not exempt from disclosure pursuant to section 22.7 or
650 another statute, are either posted on the governmental body's
660 internet web site or public bulletin board or copies are made
670 available for public inspection at the governmental body's
680 next regular meeting.

690 Sec. 3. Section 21.4, subsections 1 and 3, Code 2007, are
700 amended to read as follows:

710 1. A Except as provided in subsection 3, a governmental
720 body, ~~except-township-trustees,~~ shall give notice of the time,
730 date, and place of each meeting including a reconvened meeting
740 of the governmental body, and its the tentative agenda of the
750 meeting, in a manner reasonably calculated to apprise the
760 public of that information. Reasonable notice shall include
770 advising the news media who have filed a request for notice
780 with the governmental body and posting the notice on a
790 bulletin board or other prominent place which is easily
800 accessible to the public and clearly designated for that
810 purpose at the principal office of the body holding the
820 meeting, or if no such office exists, at the building in which
830 the meeting is to be held.

840 3. Subsection 1 does not apply to any of the following:

850 a. A meeting reconvened within four hours of the start of
860 its recess, where an announcement of the time, date, and place
870 of the reconvened meeting is made at the original meeting in
880 open session and recorded in the minutes of the meeting and
890 there is no change in the agenda.

900 b. A meeting held by a formally constituted subunit of a
910 parent governmental body ~~may-conduct-a-meeting-without-notice~~
920 ~~as-required-by-this-section~~ during a lawful meeting of the
930 parent governmental body, or during a recess in that meeting
940 of up to four hours, or a meeting of that subunit immediately
950 following that the meeting of the parent governmental body, if
960 the meeting of the that subunit is publicly announced in open
970 session at the parent meeting and the subject of the meeting
980 reasonably coincides with the subjects discussed or acted upon
990 by the parent governmental body.

1000 Sec. 4. Section 21.5, subsection 4, Code Supplement 2007,
1010 is amended to read as follows:

1020 4. A governmental body shall keep detailed minutes of all
1030 discussion, persons present, and action occurring at a closed
1040 session, and shall also tape record all of the closed session.
1050 The detailed minutes and tape recording of a closed session

1060 shall be sealed and shall not be public records open to public
1070 inspection. However, upon order of the court in an action to
1080 enforce this chapter, the detailed minutes and tape recording
1090 shall be unsealed and examined by the court in camera. The
1100 court shall then determine what part, if any, of the minutes
1110 should be disclosed to the party seeking enforcement of this
1120 chapter for use in that enforcement proceeding. In
1130 determining whether any portion of the minutes or recording
1140 shall be disclosed to such a party for this purpose, the court
1150 shall weigh the prejudicial effects to the public interest of
1160 the disclosure of any portion of the minutes or recording in
1170 question, against its probative value as evidence in an
1180 enforcement proceeding. After such a determination, the court
1190 may permit inspection and use of all or portions of the
1200 detailed minutes and tape recording by the party seeking
1210 enforcement of this chapter. A governmental body shall keep
1220 the detailed minutes and tape recording of any closed session
1230 for a period of at least one year from the date of that
1240 meeting, except as otherwise required by law.

1250 Sec. 5. Section 21.6, subsection 3, paragraph a,
1260 unnumbered paragraph 1, Code 2007, is amended to read as
1270 follows:

1280 Shall assess each member of the governmental body who
1290 participated in its violation damages in the amount of not
1300 more than two thousand five hundred dollars ~~nor~~ and not less
1310 than one ~~hundred~~ thousand dollars. These damages shall be
1320 paid by the court imposing it to the state of Iowa, if the
1330 body in question is a state governmental body, or to the local
1340 government involved if the body in question is a local
1350 governmental body. A member of a governmental body found to
1360 have violated this chapter shall not be assessed such damages
1370 if that member proves that the member did any of the
1380 following:

1390 Sec. 6. Section 22.1, Code 2007, is amended to read as
1400 follows:

1410 22.1 DEFINITIONS.

1420 1. "Confidential record" means a government record
1430 designated by statute as unavailable for examination and
1440 copying by members of the public.

1450 ~~1-~~ 2. ~~The-term-"government~~ "Government body" means this
1460 state, or any county, city, township, school corporation,
1470 political subdivision, tax-supported district, nonprofit
1480 corporation other than a fair conducting a fair event as
1490 provided in chapter 174, whose facilities or indebtedness are
1500 supported in whole or in part with property tax revenue and
1510 which is licensed to conduct pari-mutuel wagering pursuant to
1520 chapter 99D, or other entity of this state, or any branch,
1530 department, board, bureau, commission, council, committee,
1540 official, or officer of any of the foregoing or any employee
1550 delegated the responsibility for implementing the requirements
1560 of this chapter.

1570 3. "Government record" means a record owned by, created
1580 by, in the possession of, or under the control of, any unit,
1590 division, or part of state or local government or the
1600 officials or employees of such public bodies in the course of
1610 the performance of their respective duties.

1620 ~~2-~~ 4. ~~The-term-"lawful~~ "Lawful custodian" means the
1630 government body currently in physical possession of the ~~public~~
1640 government record. The custodian of a ~~public~~ government
1650 record in the physical possession of persons outside a
1660 government body is the government body owning that government
1670 record. The government records relating to the investment of
1680 public funds are the property of the public body responsible
1690 for the public funds. Each government body shall delegate to
1700 particular officials or employees of that government body the
1710 responsibility for implementing the requirements of this
1720 chapter and shall publicly announce the particular officials
1730 or employees to whom responsibility for implementing the
1740 requirements of this chapter has been delegated. "Lawful
1750 custodian" does not mean an automated data processing unit of

1760 a public body if the data processing unit holds the government
1770 records solely as the agent of another public body, nor does
1780 it mean a unit which holds the government records of other
1790 public bodies solely for storage.

1800 3.--~~As used in this chapter, "public records" includes all~~
1810 ~~records, documents, tape, or other information, stored or~~
1820 ~~preserved in any medium, of or belonging to this state or any~~
1830 ~~county, city, township, school corporation, political~~
1840 ~~subdivision, nonprofit corporation other than a fair~~
1850 ~~conducting a fair event as provided in chapter 174, whose~~
1860 ~~facilities or indebtedness are supported in whole or in part~~
1870 ~~with property tax revenue and which is licensed to conduct~~
1880 ~~pari-mutuel wagering pursuant to chapter 99B, or tax-supported~~
1890 ~~district in this state, or any branch, department, board,~~
1900 ~~bureau, commission, council, or committee of any of the~~
1910 ~~foregoing.~~

1920 "Public records" also includes all records relating to the
1930 investment of public funds including but not limited to
1940 investment policies, instructions, trading orders, or
1950 contracts, whether in the custody of the public body
1960 responsible for the public funds or a fiduciary or other third
1970 party.

1980 5. "Optional public record" means a government record
1990 designated by statute as unavailable for examination and
2000 copying by members of the public unless otherwise ordered by a
2010 court, by the lawful custodian of the records, or by another
2020 person duly authorized to release such information.

2030 6. "Public record" means a government record to which
2040 members of the public have an unqualified right to examine and
2050 copy and includes a government record not designated by
2060 statute as either a confidential record or an optional public
2070 record.

2080 7. "Record" means information of every kind, nature, and
2090 form preserved or stored in any medium including but not
2100 limited to paper, electronic media, or film media.

2110 Sec. 7. Section 22.2, subsection 2, Code 2007, is amended
2120 to read as follows:

2130 2. A government body shall not prevent the examination or
2140 copying of a public record by contracting with a nongovernment
2150 body to perform any of its duties or functions. A record
2160 created by, in the possession of, or under the control of, any
2170 nongovernment body or person, which is a direct part of the
2180 execution or performance of duties imposed upon the
2190 nongovernment body or person by contract with a government
2200 body under which the nongovernment body or person performs a
2210 function of the government body, is a government record. The
2220 lawful custodian of such a government record is the government
2230 body with whom the nongovernment body or person has executed
2240 the contract.

2250 Sec. 8. NEW SECTION. 22.2A RECORD REQUESTS == TIME
2260 LIMITS.

2270 1. Upon receipt of an oral or written request to examine
2280 or copy a public record, the lawful custodian shall, if
2290 feasible in the ordinary course of business, permit such
2300 examination or copying at the time of the request. If it is
2310 not feasible in the ordinary course of business to permit
2320 examination or copying of the public record at the time of the
2330 request, the lawful custodian shall immediately notify the
2340 requester, orally or in writing, when such examination or
2350 copying may take place, which shall be no later than five
2360 business days from the time of the request unless there is
2370 good cause for further delay due to unusual circumstances. If
2380 further delay is necessary because of unusual circumstances,
2390 the lawful custodian shall provide the requester with a
2400 written statement detailing the reason or reasons for the
2410 delay and the date by which the request will be satisfied.

2420 2. If the lawful custodian is in doubt as to whether the
2430 record requested is a public record or whether the requester
2440 should be permitted to examine or copy an optional public
2450 record specified in section 22.7, the lawful custodian shall

2460 make that determination within ten business days from the date
2470 of the request. Examination or copying of the government
2480 record must be allowed within five business days from the date
2490 the lawful custodian makes the decision in such circumstances
2500 to permit examination or copying of the record.

2510 3. If the lawful custodian denies a request to examine or
2520 copy a public record, the custodian must provide the requester
2530 at the time of the denial a written statement denying the
2540 request and detailing the specific reason or reasons for the
2550 denial.

2560 4. If the lawful custodian does not fulfill a request to
2570 examine or copy a public record within the times prescribed in
2580 this section, the request shall be deemed denied and the
2590 requester shall be entitled to file a complaint with the Iowa
2600 public information board pursuant to section 23.7 or file a
2610 lawsuit against the lawful custodian pursuant to section
2620 22.10.

2630 Sec. 9. Section 22.7, subsection 10, Code Supplement 2007,
2640 is amended by striking the subsection.

2650 Sec. 10. Section 22.7, subsection 11, Code Supplement
2660 2007, is amended to read as follows:

2670 11. Personal information in confidential personnel records
2680 of public government bodies including-but-not-limited-to
2690 cities, boards of supervisors and school districts relating to
2700 identified or identifiable individuals who are officials,
2710 officers, or employees of the government bodies. However, the
2720 following information relating to such individuals contained
2730 in personnel records shall be public records:

2740 a. The name and compensation of the individual.

2750 b. The date the individual was employed by the government
2760 body.

2770 c. The positions the individual holds or has held with the
2780 government body.

2790 d. The individual's qualifications for the position that
2800 the individual holds or has held including but not limited to

2810 educational background and work experience.

2820 e. Any final disciplinary action taken against the
2830 individual that resulted in the individual's discharge,
2840 suspension, demotion, or loss of pay.

2850 Sec. 11. Section 22.7, subsection 13, Code Supplement
2860 2007, is amended to read as follows:

2870 13. The records of a library which, by themselves or when
2880 examined with other public records, would reveal the identity
2890 of the library patron checking out or requesting an item or
2900 information from the library. The records shall be released
2910 to a criminal or juvenile justice agency only pursuant to an
2920 investigation of a particular person or organization suspected
2930 of committing a known crime. The records shall be released
2940 only upon a judicial determination that a rational connection
2950 exists between the requested release of information and a
2960 legitimate end and that the need for the information is cogent
2970 and compelling. This subsection shall not be construed to
2980 prohibit a library from disclosing to a parent or guardian
2990 information regarding the identity of a library patron
3000 checking out or requesting an item or information from the
3010 library who is the minor child of the parent or guardian.

3020 Sec. 12. Section 22.7, subsection 18, Code Supplement
3030 2007, is amended to read as follows:

3040 18. a. Communications not required by law, rule,
3050 procedure, or contract that are made to a government body or
3060 to any of its employees by identified persons outside of
3070 government, to the extent that the government body receiving
3080 those communications from such persons outside of government
3090 could reasonably believe that those persons would be
3100 discouraged from making them to that government body if they
3110 were available for general public examination. As used in
3120 this subsection, "persons outside of government" does not
3130 include persons or employees of persons who are communicating
3140 with respect to a consulting or contractual relationship with
3150 a government body or who are communicating with a government

3160 body with whom an arrangement for compensation exists.

3170 Notwithstanding this provision:

3180 a- (1) The communication is a public record to the extent
3190 that the person outside of government making that
3200 communication consents to its treatment as a public record.

3210 b- (2) Information contained in the communication is a
3220 public record to the extent that it can be disclosed without
3230 directly or indirectly indicating the identity of the person
3240 outside of government making it or enabling others to
3250 ascertain the identity of that person.

3260 e- (3) Information contained in the communication is a
3270 public record to the extent that it indicates the date, time,
3280 specific location, and immediate facts and circumstances
3290 surrounding the occurrence of a crime or other illegal act,
3300 except to the extent that its disclosure would plainly and
3310 seriously jeopardize a continuing investigation or pose a
3320 clear and present danger to the safety of any person. In any
3330 action challenging the failure of the lawful custodian to
3340 disclose any particular information of the kind enumerated in
3350 this paragraph, the burden of proof is on the lawful custodian
3360 to demonstrate that the disclosure of that information would
3370 jeopardize such an investigation or would pose such a clear
3380 and present danger.

3390 b. This subsection does not apply to information relating
3400 to applications to a government body for employment.

3410 Sec. 13. Section 22.7, subsection 52, paragraphs a and c,
3420 Code Supplement 2007, are amended to read as follows:

3430 a. The following records relating to a charitable donation
3440 ~~made-to-a-foundation-acting-solely-for-the-support-of-an~~
3450 ~~institution-governed-by-the-state-board-of-regents,-to-a~~
3460 ~~foundation-acting-solely-for-the-support-of-an-institution~~
3470 ~~governed-by-chapter-260E,-to-a-private-foundation-as-defined~~
3480 ~~in-section-509-of-the-Internal-Revenue-Code-organized-for-the~~
3490 ~~support-of-a-government-body,-or-to-an-endow-Iowa-qualified~~
3500 ~~community-foundation,-as-defined-in-section-15E-303,-organized~~

3510 ~~for-the-support-of-a-government-body:~~

3520 (1) Portions of records that disclose a donor's or
3530 prospective donor's personal, financial, estate planning, or
3540 gift planning matters.

3550 (2) Records received from a donor or prospective donor
3560 regarding such donor's prospective gift or pledge.

3570 (3) Records containing information about a donor or a
3580 prospective donor in regard to the appropriateness of the
3590 solicitation and dollar amount of the gift or pledge.

3600 (4) Portions of records that identify a prospective donor
3610 and that provide information on the appropriateness of the
3620 solicitation, the form of the gift or dollar amount requested
3630 by the solicitor, and the name of the solicitor.

3640 (5) Portions of records disclosing the identity of a donor
3650 or prospective donor, including the specific form of gift or
3660 pledge that could identify a donor or prospective donor,
3670 directly or indirectly, when such donor has requested
3680 anonymity in connection with the gift or pledge. This
3690 subparagraph does not apply to a gift or pledge from a
3700 publicly held business corporation.

3710 c. Except as provided in paragraphs "a" and "b", portions
3720 of records relating to the receipt, holding, and disbursement
3730 of gifts made for the benefit of regents institutions and made
3740 through foundations established for support of regents
3750 institutions, including but not limited to written
3760 fund-raising policies and documents evidencing fund-raising
3770 practices, shall be subject to this chapter. Unless otherwise
3780 provided, the lawful custodian of all records subject to this
3790 paragraph is the regents institution to be benefited by such
3800 gifts.

3810 Sec. 14. Section 22.7, Code Supplement 2007, is amended by
3820 adding the following new subsections:

3830 NEW SUBSECTION. 60. PUBLIC EMPLOYMENT APPLICATIONS.

3840 a. The identity and qualifications of an applicant for
3850 employment by a government body if the applicant requests

3860 anonymity in writing and the government body determines that
3870 anonymity is necessary to induce the applicant to apply for
3880 the employment position. Such information shall be exempt
3890 from disclosure until an applicant is considered by the
3900 government body to be a finalist for the position. For
3910 purposes of this subsection, "finalist" means any applicant
3920 who is determined to be among those who are under final
3930 consideration for the position, and at least includes the five
3940 most qualified applicants as determined by the recommending or
3950 selecting authority. If there are five or fewer applicants
3960 for the particular position, all of the applicants shall be
3970 considered finalists for purposes of this subsection. The
3980 identities and qualifications of the finalists shall be made
3990 available for public inspection at least three business days
4000 prior to a final decision.

4010 b. Documents relating to a government body's evaluation of
4020 the qualifications and merits of an applicant for employment
4030 by that government body.

4040 NEW SUBSECTION. 61. INFORMATION INVADING PERSONAL
4050 PRIVACY.

4060 a. Information about and linked to an identified or
4070 identifiable person that, if disclosed to the general public,
4080 would constitute an unwarranted or undue invasion of personal
4090 privacy or that would present a clear and serious danger of
4100 facilitating identity theft or other criminal activity in
4110 relation to that person. For purposes of this subsection,
4120 "unwarranted or undue invasion of personal privacy" means the
4130 public disclosure of particular information about and linked
4140 to an identified or identifiable person that is likely to
4150 subject such person to potential harm of such person's
4160 personal privacy interests or personal security interests that
4170 clearly outweighs any potential benefit to the public interest
4180 from disclosure of such information. Information about and
4190 linked to an identified or identifiable person excluded from
4200 public inspection by this paragraph includes but is not

4210 limited to social security numbers, driver's license numbers,
4220 credit card and bank account numbers, and personal financial
4230 data other than the salary and benefits of a public official
4240 or employee and any financial statements required to be filed
4250 by a public official or public employee to avoid a conflict of
4260 interest.

4270 b. Information exempted from public disclosure by this
4280 subsection does not include information about and linked to an
4290 identified or identifiable person released by the lawful
4300 custodian with the person's written consent or information
4310 relating to the execution of duties by a public official or
4320 public employee.

4330 NEW SUBSECTION. 62. TENTATIVE, PRELIMINARY, OR DRAFT
4340 MATERIALS. Tentative, preliminary, draft, speculative, or
4350 research material, prior to its final completion for the
4360 purpose for which it is intended and prior to its submission
4370 for use in the final formulation, recommendation, adoption, or
4380 execution of any official policy or action by a public
4390 official authorized to make such decisions for the government
4400 body. Such materials shall be treated as a public record at
4410 the time the materials are actually used as the basis for the
4420 final formulation, recommendation, adoption, or execution of
4430 any official policy or action of a government body.

4440 NEW SUBSECTION. 63. CLOSED SESSION RECORDS. Records
4450 containing information that would permit a governmental body
4460 subject to chapter 21 to hold a closed session pursuant to
4470 section 21.5 in order to avoid public disclosure of that
4480 information.

4490 Sec. 15. Section 22.8, subsection 1, Code 2007, is amended
4500 to read as follows:

4510 1. The district court may grant an injunction restraining
4520 the examination, including copying, of a specific public
4530 record or a narrowly drawn class of public records. A hearing
4540 shall be held on a request for injunction upon reasonable
4550 notice as determined by the court to persons requesting access

4560 to the record which is the subject of the request for
4570 injunction. It shall be the duty of the lawful custodian and
4580 any other person seeking an injunction to ensure compliance
4590 with the notice requirement. Such an injunction may be issued
4600 only if the petition supported by affidavit shows and if the
4610 court finds ~~both~~ any of the following:

4620 a. That the examination would clearly not be in the public
4630 interest because the potential harm to the public interest
4640 from disclosure of the particular information involved clearly
4650 outweighs any potential benefit to the public interest from
4660 disclosure.

4670 b. That the examination would substantially and
4680 irreparably injure any person or persons because it would
4690 invade the personal privacy of the identified subject of the
4700 record and the harm to that person from such disclosure is not
4710 outweighed by the public interest in its disclosure.

4720 c. That the record at issue is not a public record.

4730 d. That the record at issue is a record exempt from
4740 mandatory disclosure pursuant to section 22.7 and that a
4750 determination by the custodian to permit inspection of the
4760 record by one or more members of the public is a violation of
4770 law or is arbitrary, capricious, unreasonable, or an abuse of
4780 discretion.

4790 Sec. 16. Section 22.8, subsection 4, paragraphs c and d,
4800 Code 2007, are amended to read as follows:

4810 c. To determine whether the government record in question
4820 is a public record, an optional public record, or a
4830 confidential record.

4840 d. To determine whether ~~a-confidential~~ an optional public
4850 record should be available for inspection and copying to the
4860 person requesting the right to do so. A reasonable delay for
4870 this purpose shall not exceed ~~twenty-calendar-days-and~~
4880 ~~ordinarily-should-not-exceed~~ ten business days.

4890 Sec. 17. Section 22.10, subsection 3, paragraph b, Code
4900 2007, is amended to read as follows:

4910 b. Shall assess the persons who participated in its
4920 violation damages in the amount of not more than two thousand
4930 five hundred dollars ~~nor~~ and not less than one hundred
4940 thousand dollars. These damages shall be paid by the court
4950 imposing them to the state of Iowa if the body in question is
4960 a state government body, or to the local government involved
4970 if the body in question is a local government body. A person
4980 found to have violated this chapter shall not be assessed such
4990 damages if that person proves that the person ~~either-voted~~ did
5000 any of the following:

5010 (1) Voted against the action violating this chapter,
5020 refused to participate in the action violating this chapter,
5030 or engaged in reasonable efforts under the circumstances to
5040 resist or prevent the action in violation of this chapter;
5050 ~~had.~~

5060 (2) Had good reason to believe and in good faith believed
5070 facts which, if true, would have indicated compliance with the
5080 requirements of this chapter; ~~or-reasonably.~~

5090 (3) Reasonably relied upon a decision of a court or an
5100 opinion of the Iowa public information board, the attorney
5110 general, or the attorney for the government body.

5120 Sec. 18. Section 22.13, Code 2007, is amended to read as
5130 follows:

5140 22.13 ~~SETTLEMENTS~~ == ~~GOVERNMENTAL~~ GOVERNMENT BODIES.

5150 1. A written summary of the terms of settlement, including
5160 amounts of payments made to or through a claimant, or other
5170 disposition of any claim for damages made against a
5180 ~~governmental~~ government body or against an employee, officer,
5190 or agent of a ~~governmental~~ government body, by an insurer
5200 pursuant to a contract of liability insurance issued to the
5210 ~~governmental~~ government body, shall be filed with the
5220 ~~governmental~~ government body and shall be a public record.

5230 2. A final binding settlement agreement between any
5240 government body of this state or unit or official of such a
5250 government body that resolves a legal dispute between such a

5260 government body and another person or entity shall include a
5270 brief summary indicating the identity of the parties involved,
5280 the nature of the dispute, any underlying relevant facts that
5290 are agreed to by the parties and that are disputed by the
5300 parties, and the terms of the settlement, and shall be filed
5310 with the government body and shall be available for public
5320 inspection.

5330 Sec. 19. Section 22.14, subsection 3, Code 2007, is
5340 amended to read as follows:

5350 3. If a fiduciary or other third party with custody of
5360 public investment transactions records fails to produce public
5370 records within a reasonable period of time as requested by the
5380 ~~publie~~ government body, the ~~publie~~ government body shall make
5390 no new investments with or through the fiduciary or other
5400 third party and shall not renew existing investments upon
5410 their maturity with or through the fiduciary or other third
5420 party. The fiduciary or other third party shall be liable for
5430 the penalties imposed under ~~section-22.6~~ statute, common law,
5440 or contract due to the acts or omissions of the fiduciary or
5450 other third party ~~and-any-other-remedies-available-under~~
5460 ~~statute, common-law, or contract.~~

5470 Sec. 20. NEW SECTION. 23.1 CITATION AND PURPOSE.

5480 This chapter may be cited as the "Iowa Public Information
5490 Board Act". The purpose of this chapter is to provide an
5500 alternative means by which to secure compliance with and
5510 enforcement of the requirements of chapters 21 and 22.

5520 Sec. 21. NEW SECTION. 23.2 DEFINITIONS.

5530 1. "Board" means the Iowa public information board created
5540 in section 23.3.

5550 2. "Complainant" means a person who files a complaint with
5560 the board.

5570 3. "Complaint" means a written and signed document filed
5580 with the board alleging a violation of chapter 21 or 22.

5590 4. "Custodian" means a government body, government
5600 official, or government employee designated as the lawful

5610 custodian of a government record pursuant to section 22.1.

5620 5. "Government body" means the same as defined in section
5630 21.1.

5640 6. "Person" means an individual, partnership, association,
5650 corporation, legal representative, trustee, receiver,
5660 custodian, government body, or official, employee, agency, or
5670 political subdivision of this state.

5680 7. "Respondent" means any agency or other unit of state or
5690 local government, custodian, government official, or
5700 government employee who is the subject of a complaint.

5710 Sec. 22. NEW SECTION. 23.3 BOARD APPOINTED.

5720 1. An Iowa public information board is created consisting
5730 of five members appointed by the governor, subject to
5740 confirmation by the senate. Membership shall be balanced as
5750 to political affiliation as provided in section 69.16.
5760 Members appointed to the board shall serve staggered,
5770 four-year terms, beginning and ending as provided by section
5780 69.19. A quorum shall consist of three members.

5790 2. A vacancy on the board shall be filled by the governor
5800 by appointment for the unexpired part of the term. A board
5810 member may be removed from office by the governor for good
5820 cause. The board shall select one of its members to serve as
5830 chair and shall employ a director who shall serve as the
5840 executive officer of the board.

5850 Sec. 23. NEW SECTION. 23.4 COMPENSATION AND EXPENSES.

5860 Board members shall be paid a per diem as specified in
5870 section 7E.6 and shall be reimbursed for actual and necessary
5880 expenses incurred while on official board business. Per diem
5890 and expenses shall be paid from funds appropriated to the
5900 board.

5910 Sec. 24. NEW SECTION. 23.5 ELECTION OF REMEDIES.

5920 1. An aggrieved person, any taxpayer to or citizen of this
5930 state, the attorney general, or any county attorney may seek
5940 enforcement of the requirements of chapters 21 and 22 by
5950 electing either to file an action pursuant to section 17A.19,

5960 21.6, or 22.10, whichever is applicable, or in the
5970 alternative, to file a timely complaint with the board.

5980 2. If more than one person seeks enforcement of chapter 21
5990 or 22 with respect to the same incident involving an alleged
6000 violation, and one or more of such persons elects to do so by
6010 filing an action under section 17A.19, 21.6, or 22.10 and one
6020 or more of such persons elects to do so by filing a timely
6030 complaint with the board, the court in which the action was
6040 filed shall dismiss the action without prejudice, authorizing
6050 the complainant to file a complaint with respect to the same
6060 incident with the board without regard to the timeliness of
6070 the filing of the complaint at the time the action in court is
6080 dismissed.

6090 3. If a government body files an action pursuant to
6100 section 22.8 seeking to enjoin the inspection of a public
6110 record, the respondent may remove the proceeding to the board
6120 for its determination by filing, within thirty days of the
6130 commencement of the judicial proceeding, a complaint with the
6140 board alleging a violation of chapter 22 in regard to the same
6150 matter.

6160 Sec. 25. NEW SECTION. 23.6 BOARD POWERS AND DUTIES.

6170 The board shall have all of the following powers and
6180 duties:

6190 1. Employ such employees as are necessary to execute its
6200 authority, including administrative law judges, and attorneys
6210 to prosecute respondents in proceedings before the board and
6220 to represent the board in proceedings before a court.
6230 Notwithstanding section 8A.412, all of the board's employees,
6240 except for the executive director and legal counsels, shall be
6250 employed subject to the merit system provisions of chapter 8A,
6260 subchapter IV.

6270 2. Adopt rules with the force of law pursuant to chapter
6280 17A calculated to implement, enforce, and interpret the
6290 requirements of chapters 21 and 22 and to implement any
6300 authority delegated to the board by this chapter.

6310 3. Issue, consistent with the requirements of section
6320 17A.9, declaratory orders with the force of law determining
6330 the applicability of chapter 21 or 22 to specified fact
6340 situations.

6350 4. Receive complaints alleging violations of chapter 21 or
6360 22, seek resolution of such complaints through mediation and
6370 settlement, formally investigate such complaints, decide after
6380 such an investigation whether there is probable cause to
6390 believe a violation of chapter 21 or 22 has occurred, and if
6400 probable cause has been found prosecute the respondent before
6410 the board in a contested case proceeding conducted according
6420 to the provisions of chapter 17A.

6430 5. Issue subpoenas enforceable in court for the purpose of
6440 investigating complaints and to facilitate the prosecution and
6450 conduct of contested cases before the board.

6460 6. After appropriate board proceedings, issue orders with
6470 the force of law, determining whether there has been a
6480 violation of chapter 21 or 22, requiring compliance with
6490 specified provisions of those chapters, imposing civil
6500 penalties equivalent to and to the same extent as those
6510 provided for in section 21.6 or 22.10, as applicable, on a
6520 respondent who has been found in violation of chapter 21 or
6530 22, and imposing any other appropriate remedies calculated to
6540 declare, terminate, or remediate any violation of those
6550 chapters.

6560 7. Represent itself in judicial proceedings to enforce or
6570 defend its orders and rules through attorneys on its own
6580 staff, through the office of the attorney general, or through
6590 other attorneys retained by the board, at its option.

6600 8. Make training opportunities available to custodians,
6610 government bodies, and other persons subject to the
6620 requirements of chapters 21 and 22 and require, in its
6630 discretion, appropriate persons who have responsibilities in
6640 relation to chapters 21 and 22 to receive periodic training
6650 approved by the board.

6660 9. Disseminate information calculated to inform members of
6670 the public about the public's right to access government
6680 information in this state including procedures to facilitate
6690 this access and including information relating to the
6700 obligations of government bodies under chapter 21 and lawful
6710 custodians under chapter 22 and other laws dealing with this
6720 subject.

6730 10. Prepare and transmit to the governor and to the
6740 general assembly, at least annually, reports describing
6750 complaints received, board proceedings, investigations,
6760 hearings conducted, decisions rendered, and other work
6770 performed by the board.

6780 11. Make recommendations to the general assembly proposing
6790 legislation relating to public access to government
6800 information deemed desirable by the board in light of the
6810 policy of this state to provide as much public access as
6820 possible to government information as is consistent with the
6830 public interest and the need to protect individuals against
6840 undue invasions of personal privacy.

6850 Sec. 26. NEW SECTION. 23.7 FILING OF COMPLAINTS WITH THE
6860 BOARD.

6870 1. The board shall adopt rules with the force of law and
6880 pursuant to chapter 17A providing for the timing, form,
6890 content, and means by which any aggrieved person, any taxpayer
6900 to or citizen of this state, the attorney general, or any
6910 county attorney may file a complaint with the board alleging a
6920 violation of chapter 21 or 22. The complaint must be filed
6930 within sixty days from the time the alleged violation occurred
6940 or the complainant could have become aware of the violation
6950 with reasonable diligence.

6960 2. All board proceedings in response to the filing of a
6970 complaint shall be conducted as expeditiously as possible.

6980 3. The board shall not charge a complainant any fee in
6990 relation to the filing of a complaint, the processing of a
7000 complaint, or any board proceeding or judicial proceeding

7010 resulting from the filing of a complaint.

7020 Sec. 27. NEW SECTION. 23.8 INITIAL PROCESSING OF
7030 COMPLAINT.

7040 Upon receipt of a complaint alleging a violation of chapter
7050 21 or 22, the board shall do either of the following:

7060 1. Determine that, on its face, the complaint is within
7070 the board's jurisdiction, appears legally sufficient, and
7080 could have merit. In such a case the board shall accept the
7090 complaint, and shall notify the parties of that fact in
7100 writing.

7110 2. Determine that, on its face, the complaint is outside
7120 its jurisdiction, is legally insufficient, is without merit,
7130 or relates to a specific incident that has previously been
7140 finally disposed of on its merits by the board or a court. In
7150 such a case the board shall decline to accept the complaint.
7160 If the board refuses to accept a complaint, the board shall
7170 provide the complainant with a written order explaining its
7180 reasons for the action.

7190 Sec. 28. NEW SECTION. 23.9 MEDIATION AND SETTLEMENT.

7200 1. After accepting a complaint, the board shall offer the
7210 parties an opportunity to resolve the dispute through
7220 mediation and settlement if the board determines that the
7230 matter is unlikely to be resolved with the prompt informal
7240 assistance of a board employee.

7250 2. The mediation and settlement process shall enable the
7260 complainant to attempt to resolve the dispute with the aid of
7270 a neutral mediator employed and selected by the board, in its
7280 discretion, from either its own staff or an outside source.

7290 3. Mediation shall be conducted as an informal,
7300 nonadversarial process and in a manner calculated to help the
7310 parties reach a mutually acceptable and voluntary settlement
7320 agreement. The mediator shall assist the parties in
7330 identifying issues and shall foster joint problem solving and
7340 the exploration of settlement alternatives.

7350 Sec. 29. NEW SECTION. 23.10 ENFORCEMENT.

7360 1. If any party declines mediation or settlement or if
7370 mediation or settlement fails to resolve the matter to the
7380 satisfaction of all parties, the board shall initiate a formal
7390 investigation concerning the facts and circumstances set forth
7400 in the complaint. The board shall, after an appropriate
7410 investigation, make a determination as to whether the
7420 complaint is within the board's jurisdiction and whether there
7430 is probable cause to believe that the facts and circumstances
7440 alleged in the complaint constitute a violation of chapter 21
7450 or 22.

7460 2. If the board finds the complaint is outside the board's
7470 jurisdiction or there is no probable cause to believe there
7480 has been a violation of chapter 21 or 22, the board shall
7490 issue a written order explaining the reasons for the board's
7500 conclusions and dismissing the complaint, and shall transmit a
7510 copy to the complainant and to the party against whom the
7520 complaint was filed.

7530 3. a. If the board finds the complaint is within the
7540 board's jurisdiction and there is probable cause to believe
7550 there has been a violation of chapter 21 or 22, the board
7560 shall issue a written order to that effect and shall commence
7570 a contested case proceeding under chapter 17A against the
7580 respondent. An attorney selected by the director of the board
7590 shall prosecute the respondent in the contested case
7600 proceeding. At the termination of the contested case
7610 proceeding the board shall, by a majority vote of its members,
7620 render a final decision as to the merits of the complaint. If
7630 the board finds that the complaint has merit, the board may
7640 issue any appropriate order to ensure enforcement of chapter
7650 21 or 22 including but not limited to an order requiring
7660 specified action or prohibiting specified action and any
7670 appropriate order to remedy any failure of the respondent to
7680 observe any provision of those chapters.

7690 b. If the board determines, by a majority vote of its
7700 members, that the respondent has violated chapter 21 or 22,

7710 the board may also do any or all of the following:

7720 (1) Require the respondent to pay damages as provided for
7730 in section 21.6 or 22.10, whichever is applicable, to the
7740 extent that provision would make such damages payable if the
7750 complainant had sought to enforce a violation in court instead
7760 of through the board.

7770 (2) Void any action taken in violation of chapter 21 if a
7780 court would be authorized to do so in similar circumstances
7790 pursuant to section 21.6.

7800 c. The board shall not have the authority to remove a
7810 person from public office for a violation of chapter 21 or 22.

7820 d. A final board order resulting from such proceedings may
7830 be enforced by the board in court and is subject to judicial
7840 review pursuant to section 17A.19.

7850 Sec. 30. NEW SECTION. 23.11 DEFENSES IN A CONTESTED CASE
7860 PROCEEDING.

7870 A respondent may defend against a proceeding before the
7880 board charging a violation of chapter 21 or 22 on the ground
7890 that if such a violation occurred it was only harmless error
7900 or that clear and convincing evidence demonstrated that
7910 grounds existed to justify a court to issue an injunction
7920 against disclosure pursuant to section 22.8.

7930 Sec. 31. NEW SECTION. 23.12 JURISDICTION.

7940 The board shall not have jurisdiction over the judicial or
7950 legislative branches of state government or any agency,
7960 officer, or employee of those branches, or over the governor
7970 or the office of the governor.

7980 Sec. 32. Section 455K.4, subsection 4, Code 2007, is
7990 amended to read as follows:

8000 4. Information that is disclosed under subsection 2,
8010 paragraph "b", is confidential and is not subject to
8020 disclosure under chapter 22. ~~A-governmental-entity,~~
8030 ~~governmental-employee,-or-governmental-official-who-discloses~~
8040 ~~information-in-violation-of-this-subsection-is-subject-to-the~~
8050 ~~penalty-provided-in-section-22-6-~~

8060 Sec. 33. Section 602.6111, subsection 3, Code 2007, is
8070 amended by striking the subsection and inserting in lieu
8080 thereof the following:

8090 3. The supreme court may prescribe rules requiring
8100 confidentiality of certain categories of material in records
8110 maintained by the courts that are about and linked to an
8120 identified or identifiable person and that, if disclosed to
8130 the general public, would constitute an unwarranted or undue
8140 invasion of personal privacy or that would present a clear and
8150 serious danger of facilitating identity theft or other
8160 criminal activity in relation to that person. For purposes of
8170 this subsection, "unwarranted or undue invasion of personal
8180 privacy" means the public disclosure of particular information
8190 about and linked to an identified or identifiable person that
8200 is likely to subject such person to potential harm of such
8210 person's personal privacy interests or personal security
8220 interests that clearly outweighs any potential benefit to the
8230 public interest from disclosure of such information. The
8240 rules prescribed pursuant to this subsection may specify the
8250 manner and format in which such confidential information is to
8260 be provided to a clerk of court, authorize the degree and
8270 nature of the disclosure of such confidential information to
8280 specified classes of persons, and indicate the manner and
8290 format in which such confidential information is stored and
8300 disclosed to appropriate persons by the clerk of court. Rules
8310 prescribed by the supreme court pursuant to this subsection
8320 shall prevail over any other conflicting state laws and
8330 administrative rules.

8340 Sec. 34. Section 22.6, Code 2007, is repealed.

8350 MARGINS C

8360

EXPLANATION

8370 MARGINS L

8380 MARGINS F F

8390 LSB 5233IC 82

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